

REMARKS

Claims 1-12 were pending. Claims 13-21 were previously withdrawn from consideration and claims 1-12 stand rejected. By virtue of this response, claims 12-21 have been cancelled and no claims have been added or amended. Accordingly, claims 1-11 are currently under consideration.

For the Examiner's convenience, Applicants' remarks are presented in the same order in which they were raised in the Office Action.

Claim Rejections under 35 USC §102

A. Claim 12 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Akiyama et al. (US Patent Number 5406547).

Claim 12 has been cancelled and the rejection is now moot.

B. Claims 1-3, 5-7, and 11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Takishima (U.S. Publication Number 2004/0042383).

In response, Applicants respectfully submit that the Takishima reference does not qualify as prior art under § 102(e). The foreign priority date under § 119 (a)-(d), (f) or § 365(a) of a reference may not be used as the critical reference date for § 102(e) purposes. (MPEP 2136.03 I (citing *In re Hilmer*, 359 F.2d 859 (CCPA 1966))). Applicants submit that the critical reference date of Takishima for § 102(e) purposes is its U.S. filing date of August 27, 2003. Furthermore, Applicants submit that they are entitled to the benefit of their Provisional Application No. 60/492,093, filed on July 31, 2003 (the present claims finding support, for example, by claims 1-10 and Figs. 6A-10B, 13, and 14 of the provisional application). Since Applicants' priority date (July 31, 2003) predates the critical reference date of Takishima (August 27, 2003), Applicants submit that the rejection under § 102(e) must be withdrawn.

Accordingly, for at least these reasons, Applicants submit that claims 1-11 are in condition for allowance.

Claim Rejections under 35 USC §103

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Takishima, in view of Akiyama et al. (U.S. Patent Number 5,406,547).

Claim 4 depends from claim 1 and is allowable over Takishima for at least similar reasons as claim 1 discussed above. Accordingly, the rejection to claim 4 should be withdrawn.

Claim Rejections under 35 U.S.C. § 102

Claims 1 and 6 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Takishima.

Applicants note that the rejections to claims 1 and 6 on pages 8 and 9 of the Office Action are largely identical to the rejections on pages 4 and 5. Applicants believe that this is a typographical/formatting error. In any event, reference is made to the remarks above with respect to the rejection to claims 1-3, 5-7, and 11 as being anticipated by Takishima, and submit that claims 1 and 6 are allowable over Takishima for at least the reasons stated above.

Claim Rejections under 35 U.S.C. § 103

Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takishima, in view of Akiyama et al.

Claims 8-10 depend from claim 1 and are allowable over Takishima for at least similar reasons as claim 1 discussed above. Accordingly, the rejection to claims 8-10 should be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 495812005200. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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